

REMARKS/ARGUMENTS

Claims 26-35 are pending in this application. Claims 26, 29 and 32-34 are currently amended. Claims 47-51 are newly presented. Claims 1-25 and 36-46 were previously canceled.

Support for the amendments to claims claim 26 and 29 is provided in the specification on, for example, page 9, lines 1 to page 10, line 12, and support for the amendments to claims 32-34 is provided, for example, in claims 32-34.

Support for claims 47 and 48 is provided in the specification on, for example, page 13, lines 8-22 and Figure 5, support for claim 49 is provided in the specification on, for example, page 9, line 1 to page 10, line 12, and in Figures 1 and 2, and support for claims 50 and 51 is provided in claims 32-34.

No new matter is entered by any of these amendments.

I. Rejections under 35 U.S.C. § 103 in View of the Kuethe Patent

Claims 26-30 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious in view of U.S. Patent No. 5,155,969 to Kuethe et al. ("the Kuethe patent"). Applicant respectfully traverses this rejection because the Kuethe patent does not disclose, teach or suggest every element of Applicant's claims. The Kuethe patent, for example, does not disclose, teach, or suggest an apparatus of the type claimed in which pressure is controllably applied to contiguous lidstock and each flange of the recited containers using a plurality of pressure transducers and a controller. Rather, the Kuethe patent discloses applying a vacuum to containers prior to sealing them. Moreover, there does not appear to be any description, teaching or suggestion in the Kuethe patent regarding controlling the application of pressure

in any way. Because at least this claim element is not disclosed, taught or suggested by the Kuethe patent, Applicant respectfully requests that this rejection under U.S.C. § 103(a) be withdrawn.

II. Rejections under 35 U.S.C. § 103 in view of the Kuethe Patent combined with the Edwards Patents

Claims 31-35 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious in view of the Kuethe patent combined with either one of U.S. Patent Nos. 5,565,059 and 5,528,878 to Edwards, *et al.* (“the Edwards patents”). Applicant respectfully traverses this rejection because combining the teachings of the Kuethe patent and the Edwards patents would not have produced any claimed invention. Specifically, none of these references disclose or suggest an apparatus in which pressure can be controllably applied to the contiguous lidstock and the flanges of the containers. Although the Edwards patents disclose an inspection system, neither remedies the above-noted deficiency of the Kuethe patent with respect to pressure control. Applicant therefore respectfully requests that this rejection under U.S.C. § 103(a) be withdrawn.

III. Rejections under 35 U.S.C. § 103 in view of the Novartis “Ciba Geigy” Reference

Claims 26-35 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious in view of WO 98/32587 to Novartis-Erfindungen (“the Ciba Geigy reference”). Applicant respectfully traverses this rejection because the Ciba Geigy reference – like those discussed above – does not disclose or suggest an apparatus in which the pressure can be controllably

applied to the contiguous lidstock and the flanges of the containers. Rather, the Ciba Geigy reference is directed to *controlling temperature* of the contact plates:

“... For the purpose of generating the mechanical pressure and causing heat to act on the join there is used a contact plate (70) of low heat capacity which, during the thermal bonding, is pressed against the surface of the cover film (F) remote from the contact surface. The temperature of the contact plate is measured in the immediate vicinity of the cover film, and in the event of the measured temperature deviating from a predetermined tolerance range around a desired temperature, **the temperature of the contact plate (70) is within a very short time adjusted so that it again lies with the predetermined tolerance range around the desired temperature.**” (Abstract, Ciba Geigy reference, emphasis supplied)

The Ciba Geigy reference thus describes an apparatus for the thermal bonding of a base part of a packaging with a cover film, with no apparent teaching regarding including in the apparatus pressure transducers and a controller for controlling the pressure between the base part and the cover film. Since the Ciba Geigy reference fails to disclose or suggest at least this claim element, Applicant respectfully requests that this rejection under U.S.C. § 103(a) be withdrawn.

IV. Rejections under 35 U.S.C. § 102 in view of the Giovannone and Kuethe Patents

Claims 26-28 and 35 stand rejected under 35 U.S.C. § 102(b) as allegedly being “*clearly anticipated*” by U.S. Patent No. 5,379,572 to Giovannone (“the Giovannone patent”) in view of the Kuethe patent. Applicant respectfully traverses this rejection because the proposed combination of the Giovannone and Kuethe patents:

a) would be improper use of multiple references in the context of 35 U.S.C. § 102;
and

b) would not have produced any claimed invention.

According to M.P.E.P. 2131.01, Multiple Reference:

“Normally, only one reference should be used in making a rejection under 35 U.S.C. 102. However, a 35 U.S.C. 102 rejection over multiple references has been held to be proper when the extra references are cited to:

(A) Prove the primary reference contains an "enabled disclosure;"

(B) Explain the meaning of a term used in the primary reference; or

(C) Show that a characteristic not disclosed in the reference is inherent.”

The instant rejection does employ the cited patents for any of the purposes set forth in A-C above. Instead, the instant rejection combines the patents to show that “*it would have been obvious to one of ordinary skilled in the art to provide the lidstock of Giovannone in a continuous sheet form that is subsequently cut to any size as shown by Kuethe to ease the positioning of the lidstock in the sealing mechanism.*” (Office Action at page 4, lines 9-11).

Accordingly, this multiple reference rejection under 35 U.S.C. § 102 is improper and should be withdrawn.

Even if the Office intended to make an obviousness rejection under 35 U.S.C. § 103, the combination of the Kuethe and Giovannone patents proposed by the Office could not have produced any claimed invention. The Giovannone patent discloses cold pressing preheated sections of thermoplastic sheets under pressure to seal the preheated sections to provide cold seal bonded blister packages, and does not appear to remedy the above-noted

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deficiency of the Kuethe patent regarding pressure control. In as much as each element of claims 26-38 and 35 are not disclosed, taught or suggested by the combination of the Kuethe and Giovannone patents, Applicant respectfully requests that this rejection under U.S.C. § 102(b) be withdrawn.

V. Rejections under 35 U.S.C. § 103 in view of the Giovannone and Kuethe Patents, further in view of the Edwards Patents

Claims 29-34 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the Giovannone patent in view of the Kuethe patent and further in view of either one of the Edwards patents. As noted above, however, none of these patents disclose or suggest at least the pressure control element of Applicant's claims. Since at least this claim element is not disclosed, taught or suggested by the proposed combination of the Giovannone, Kuethe and the Edwards patents, the rejection for alleged obviousness is improper and should be withdrawn.

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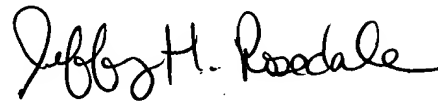
VI. Conclusions

Applicant requests the Examiner to:

- (1) enter the amendments to claims 26, 29 and 32-34, and enter new claims 47-51;
- (2) reconsider and withdraw the standing rejections of the claims; and
- (3) pass claims 26-35 and 47-49 to allowance.

If the Examiner is of a contrary view, the Examiner is requested to contact the undersigned attorney at (215) 557-5984.

Respectfully submitted,



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